

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

September 16, 2003

IN RE:

PETITION FOR AUDIT OF SS7 CHARGES BY
BELLSOUTH TELECOMMUNICATIONS, INC.

DOCKET NO.
03-00344

ORDER DENYING REQUEST FOR AUDIT OF SS7 CHARGES
WITHOUT PREJUDICE

This matter came before Chairman Deborah Taylor Tate, Director Sara Kyle and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on August 18, 2003, to consider the *Intervenors' Request for Audit of SS7 Charges* filed by XO Tennessee, Inc. and AT&T Communications of the South Central States, L.L.C.

Background

On January 9, 2002, BellSouth Telecommunications, Inc. ("BellSouth") filed modifications to its Access Arrangement Tariff with a proposed effective date of February 6, 2002. The modifications to the tariff added a new charge for CCS7 signaling¹ and reduced local switching rates. On February 5, 2002, the *Joint Petition of XO Tennessee, Inc., US LEC of Tennessee, Inc., Time Warner Telecom of the Mid-South L.P., and ITC^DeltaCom, Inc. to Suspend Effective Date* was filed in Docket No. 02-00024, *BellSouth Telecommunications, Inc. Tariff to Modify CCS7 Arrangement*.

¹Signaling is the exchange of control information between elements of a telecommunications network. Such information includes supervisory information used to initiate and terminate connections and to indicate status, general purpose information and network management. Common Channel Signaling is a signaling method in which the signals are no longer carried over the circuits/channels being controlled (as with inband analog signaling). Instead, a separate shared (common) channel (signaling link) is used to convey the signaling information. Signaling System 7 (SS7) is the latest protocol in use among switches and databases in the switched network.

The joint petitioners argued that if the tariff was allowed to become effective, they would be required to purchase SS7 services at an increased rate, which would increase their cost of providing service to end-users and necessitate expensive changes to their billing systems.² The joint petitioners requested the Authority to consider, *inter alia*, (1) whether the tariff would permit BellSouth to charge an interexchange carrier ("IXC") and a competing local exchange carrier ("CLEC") for the same message, resulting in windfall double billing; and (2) whether any evidence supports BellSouth's claim that its reduction to local switching rates maintains revenue neutrality and, if so, how these rate payment obligations shift among customers.

On February 7, 2002, BellSouth filed a revision to its tariff in Docket No. 02-00024 which also changed the proposed effective date to March 1, 2002. During the regularly scheduled Authority Conference held on February 26, 2002, the parties agreed to an extension of the proposed effective date to March 15, 2002 to facilitate settlement negotiations. During the March 12, 2002 Authority Conference, the Directors voted unanimously to suspend the tariff for sixty days, through May 14, 2002.

At the May 7, 2002 Authority Conference, ITC^DeltaCom, Inc. ("DeltaCom") reported that its negotiations on the tariff had failed.³ After DeltaCom asserted its concerns about the tariff, including the issues of double billing and revenue neutrality, BellSouth responded that although the joint petitioners had argued that BellSouth should file a tariff that was revenue neutral, BellSouth did not feel that it was legally required to do so. Instead, BellSouth chose to do so on its own accord in order to obtain the Authority's approval.⁴ BellSouth assured the Directors that the tariff complied with the price regulation statutes.⁵ BellSouth further stated that it would be willing to consider

² XO Tennessee, Inc., US LEC of Tennessee, Inc., Time Warner Telecom of the Mid-South L.P., and ITC^DeltaCom, Inc. will be referred to collectively herein as the "original petitioners."

³ See *BellSouth Telecommunications, Inc. Tariff to Modify CCS7 Arrangement*, Docket No. 02-00024, Transcript of Authority Conference, p. 82 (May 7, 2002).

⁴ See *id.* at 84.

⁵ See *id.*; see also Tenn. Code Ann. § 65-5-209.

providing billing detail, as requested by DeltaCom, to assuage DeltaCom's concerns about double billing, on the condition that BellSouth not be required to bear the cost.⁶ BellSouth further stated that it would not object to a reasonable periodic review to assure that the tariff remains revenue neutral.⁷

During the May 21, 2002 Authority Conference, the Directors unanimously approved the tariff with minor modifications.⁸ An Order Approving Tariff was entered in Docket No. 02-00024 on June 28, 2002 and thereafter that docket was administratively closed.

On May 14, 2003, XO Tennessee, Inc. and AT&T Communications of the South Central States, L.L.C. ("Intervenors") filed the *Intervenors' Request for Audit of SS7 Charges* in Docket No. 02-00024, requesting the Authority to require BellSouth to submit to an audit to assure that the revenue the tariff generates through the SS7 charges is offset by the reduction in switching charges.⁹ AT&T Communications of the South Central States, L.L.C. ("AT&T") simultaneously filed a *Petition to Intervene*. The Intervenors maintain that "since BellSouth does not provide detailed billing for a carrier to audit these charges, it is virtually impossible for a carrier to know whether it is being properly charged or whether some messages are being billed more than once."¹⁰ The Intervenors assert that "[t]his information can only be determined by an audit of BellSouth's SS7 charges."¹¹ The Intervenors contend that because BellSouth previously agreed to submit to such an audit in order to obtain approval of the tariff, BellSouth should bear the cost. The Intervenors propose that Authority staff or an independent auditor selected by the Authority should conduct the audit.

On August 4, 2003, BellSouth filed its *Response to XO's Request for Audit of SS7 Charges and AT&T's Petition to Intervene*. While reiterating that it does not object to an audit performed in a

⁶ See Transcript of Authority Conference, p. 86 (May 7, 2002).

⁷ See *id.*

⁸ The modification required by the Directors was to change the word "interstate" to "intrastate" in one section of the tariff.

⁹ Because Docket No. 02-00024 had been administratively closed, the *Intervenors' Request for Audit of SS7 Charges* and all other filings were given Docket No. 03-00344.

¹⁰ *Intervenors' Request for Audit of SS7 Charges*, p. 3 (May 14, 2003).

¹¹ *Id.*

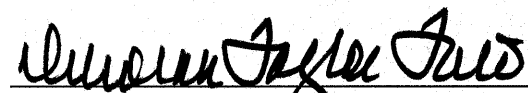
manner consistent with the price regulation statutes, BellSouth argues that the purpose and parameters of the audit should be determined prior to its commencement. BellSouth also requested that the Authority preliminarily define "double billing" and determine who would perform and pay for the audit.

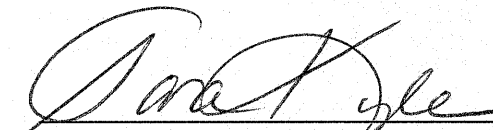
August 18, 2003 Authority Conference

The panel considered the *Intervenors' Request for Audit of SS7 Charges* at the regularly scheduled Authority Conference held on August 18, 2003. A majority of the panel rejected the request for an audit in the absence of any preliminary showing that BellSouth was double billing or that the tariff was not revenue neutral.¹² The record shows that BellSouth offered to provide the Intervenors with the billing details that could provide such evidence, at the Intervenors' cost. Should such billing details provide a justification for committing the Authority's resources to an audit, the Intervenors are directed to renew their request.

IT IS THEREFORE ORDERED THAT:

The Intervenors' Request for Audit of SS7 Charges is denied without prejudice.


Deborah Taylor Tate, Chairman


Sara Kyle, Director

* * *

Ron Jones, Director

¹² * * * Director Jones did not vote with the majority. He moved to grant the Intervenors' request for an audit and open a contested case to determine a working definition of the term "double billing" in the context of this case. The motion failed for lack of a second.